IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 04.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.437 of 2006

Tmt.Jyothi ... Petitioner

Vs.

1. The Secretary to the Government,
   Prohibition and Excise Dept.,
   Secretariat, Chennai. 9

2. The District Magistrate
   and District Collector
   Kancheepuram district
   Kancheepuram.

... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records in connection with the order detention passed by the second respondent 11.3.2006 in BDFGISV No.13/2006 against the petitioner's husband Pushparaj, S/o.Perumal, aged about 42 years, who is confined at Central Jail, Chennai and set aside the same and direct the respondents to produce the body of the detenu before this Hon'ble Court and set the detenu at liberty.

For Petitioner : Mr.Abudukumar Rajarathinam for
Mr.V.Parthiban

For Respondents : Mr.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by V.Dhanapalan, J.)

The petitioner, who is the wife of the detenu by name Pushparaj, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982

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(Tamil Nadu Act 14 of 1982), by the impugned detention order dated 11.3.2006, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 30.3.2006 was received by the Government on 3.4.2006 and remarks were called for on 4.4.2006. Thereafter, the remarks were received by the Government on 10.4.2006 and the File was submitted on 12.4.2006 and the same was dealt with by the Under Secretary on the same date i.e. on 12.4.2006 and by the Deputy Secretary on 17.4.2006 and finally, the Minister for Prohibition and Excise passed orders on 18.4.2006. The rejection letter was prepared on 10.5.2006 and the same was sent to the detenu on 12.5.2006 and served to her on 16.5.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 18.04.2006, there is no explanation at all for taking time for preparation of rejection letter till 10.5.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

सत्यमेव जयते

Sd/-
Asst. Registrar.

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/true copy/

Sub Asst. Registrar.

ajr

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To

1. The Secretary to Government,
   Prohibition and Excise Dept.,
   Fort St.George, Chennai-9.

2. The District Magistrate
   and District Collector
   Kancheepuram district
   Kancheepuram.

3. The Superintendent,
   Central Prison, Chennai.
   In duplicate for communication to detenu)

4. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor,
   High Court, Madras.

HCP. No.437 of 2006

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